

City Council Regular Meetings, December 11, 2001

Twin Pines Senior and Community Center, 1223 Ralston Avenue

**SPECIAL MEETING: 6:00 P.M.**

**CLOSED SESSION**

A. Conference with Legal Counsel, Anticipated Litigation, pursuant to Government Code Section 54956.9

1. One Case

Attended by Council members Metropulos, Cook, Wright, Bauer Warden, City Manager Kersnar, City Attorney Savaree Attorney Blackman, Assistant City Manager Rich. City Clerk Kern was excused from attending

**Adjournment** at this time, being 6:30 P.M.

Kathy Kern

Belmont City Clerk

Meeting not tape-recorded

**STUDY SESSION - 6:30 P.M. (in the Game Room)**

**Legislative discussion with Assemblyman Simitian**

Council discussed local issues with Assemblyman Simitian and requested his help in protecting local revenues. They also requested that Assemblyman Simitian consider a requirement that the State include senior congregate care toward the "fair share" housing numbers for Belmont. Council thanked him for his help on the Proposition 14 library funding, and the help he provided with our grant for plaza at the train station.

Councilmembers Wright, Cook, Metropulos, Bauer, Warden, City Manager Kersnar, City Attorney Savaree, Assistant City Manager, Rich, Community Development Director. Ewing, Finance Director Fil, Legislative Aide Michelle Lew, League of Ca. Cities Representative Rebecca Elliot and City Clerk Kern attended this meeting.

**Adjournment** at this time being 7:30 P.M.

Kathy Kern

Belmont City Clerk

Meeting not tape-recorded

## **REGULAR MEETING 7:40 P.M.**

### **ROLL CALL**

COUNCILMEMBERS PRESENT: Metropulos, Cook, Wright, Bauer, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Kersnar, Assistant City Manager Rich, City Attorney Savaree, Community Development Director Ewing, Acting Public Works Director Jones, Finance Director Fil, Police Chief Janke, Parks and Recreation Director Mittelstadt, Human Resources Director Dolan, IT Manager Harnish and City Clerk Kern

### **REPORT FROM CLOSED SESSION**

Mayor Warden announced that direction was given, but no action taken in the closed session held earlier.

### **SPECIAL ORDERS OF THE DAY/PRESENTATIONS**

Mayor's Proclamation of Appreciation for Outstanding Public Service to John Curtis.

Mayor Warden read this Proclamation and presented it to J. Curtis, former Public Works Director. John Curtis thanked everyone for this Proclamation.

### **PUBLIC/COUNCIL COMMENTS**

Mr. Campbell, 363 Jefferson Avenue, Redwood City, expressed concerns about the city's development fees. City Manager Kersnar stated that staff would send an explanation regarding these fees to Mr. Campbell, and a report to Council.

### **AGENDA AMENDMENTS**

Mayor Warden announced that the minutes of November 27<sup>th</sup> would be tabled and Consent Calendar item 4-H (directing recordation of Notices of Merger) would be removed for separate consideration.

### **CONSENT CALENDAR**

Approval of meeting minutes: Special and Regular Meetings on November 13, 2001; Study Session November 20, 2001.

Approval of Warrant List Dated: November 19, 2001 in total amount of \$240,293.55 and dated November 29, 2001 in total amount of \$98,971.90.

Written Communication 1). Rec. 11/28 from ORA re. PG&E Gen. Rate Case Proceeding and Requests for Attrition Adjustment Increases.

Motion to approve Claims Management Report.

**Resolution No. 9134** approving Professional Services Agreement with Kathy Page & Associates for Library Grant Writer and Use of Contingency Funds for an Amount not to Exceed \$42,990.

**Resolution No. 9135** approving the Purchase of Two Police Vehicles, One Truck for Community Development, One Truck for the Parks Department and One Truck for the Public Works Department from S & C Ford for an Amount not to Exceed \$95,898.60.

**Resolution No. 9136** appointing Library Member to Belmont Library Project Steering Committee.

Consent Calendar adopted as amended, on motion by C. Cook, seconded by C. Wright, and approved unanimously by show of hands to adopt Consent Calendar.

**CONSIDERATION OF RESOLUTION DIRECTING RECORDATION OF NOTICES OF MERGER ON ALL UNAPPEALED LOTS IN THE SAN JUAN AREA.**

Community Development Director Ewing reported that on October 10, 2001 the staff mailed and recorded Notices of Intent to Determine Status on 200 lots in the San Juan Hills Area to satisfy the requirements for merger. He noted that the appeal period concluded on November 9<sup>th</sup>, Twenty-two property owners submitted appeals by the deadline, and seventeen did not appeal. He said that staff was requesting direction to record a notice of merger on these properties.

Ms. Della Santina, 2704 St. James Road, former Mayor and Councilmember, and Planning Commissioner, stated that a lot merger ordinance was put in place before the current Council or staff was here and that ordinance did not work. People had to go through a demerger process to get their lot unmerged. After that action, Council developed a density transfer formula which stated if a lot could only have a 1,200 square foot house as the maximum house size, the building rights of an adjacent lot could be transferred and another 400 square feet could be added to their house. She stated this was good, but the problem was you had to already own another lot, or had to buy a lot. By merging the lots, Council was preventing the property owner from being able to do a density transfer.

She stated it was not fair to take the property rights of individuals. Ms. Della Santina stated this action was a taking by the City, and that the City has been involved in many lawsuits over the years because of ordinances like this one.

Ms. Della Santina noted that this Ordinance was brought forward by the previous City Council, two of which were no longer on the Council. Ms. Della Santina asked if the people who did not Appeals received proper notification and were aware of their rights.

Ms. Della Santina stated that by transferring building rights from an adjacent lot, it prevented development on that lot, and the lot could be donated to the Open Space Trust. The property owner would have the ability to recoup some of their expenses.

She further noted that the Lot Merger fact sheet stated that all the lots ere on paper streets. She wondered if the public was award that paper streets could not have properties build until the entire road was built. Numerous property owners would have to agree to spend the money to build the road, before any of them could build a house.

Ms. Della Santina stated the lot merger was not necessary, because rampant development was not going on. Ms. Della Santina asked the City Council to do what was best for Belmont as a whole, and thought the Canyon was saved.

**Mr. Mozingo**, Governmental Affairs Director, San Mateo County Real Estate Board, spoke against these lot mergers. He said he thought that it would take the value from these properties. He stated that a density transfer was a value to a property owner which allowed the property owner to expand his property rights, and subdivision was even more valuable. He requested that the new Council reconsider this action. He said the constituents feel that their property value was being taken away from them and they would not be allowed to build their version of the American dream. Mr. Mozingo requested that the property owners that had not appealed, be made fully aware of this action to be taken.

**Mrs. Farley**, P.O.Box 112, Kelseyville, Ca. explained that she had purchased these lots 40+ years ago for her children. She said that her children pay the taxes on these lots She said she did not file an appeal, but she was against merging these lots, because they were split between her children. She said that only one house could be built now, which she thought was unfair.

**Mr. Lo**, 3300 Ralston, Hillsborough, stated he had purchased five lots in this area. He requested that Council reconsider this lot merger, he did not think it was fair to merge his lots.

**Mr. Gan**, 2059 Isabella, stated that this action was not right.

Community Development Director Ewing stated that every property owner was noticed with a return receipt, which were on file in the Community Development Department.

Speaker came to the podium and did not identify herself. She said she did not sign the return receipt that was sent by the Planning Department.

**Action:** on motion by C. Wright, seconded by C. Cook, and approved, by show of hands, 4-1

(Bauer, no), to adopt:

**Resolution No. 9137** directing recordation of Notice of Merger on all unappealed Lots in the San Juan Area.

## **PUBLIC/HEARINGS**

**Public Hearing to receive public comment on the Draft Initial Study/Environmental Assessment for the United States Route 101/Ralston Avenue Interchange Modification Project.**

Acting Public Works Director Jones reported that this initial study had been released for comments on November 6<sup>th</sup> for a 45-day period. Following the December 21<sup>st</sup> comment period, the final study will return to Council for final approval. A map showing was held on November 29<sup>th</sup> with nine participants.

**Mr. Constantini**, Mark Thomas Associates, reviewed the realignment for the new direct access. He described which on-ramps would be removed, and where the road would join Highway 101 and Ralston Avenue.

**Ms. Fay**, PAR Environmental Services, Inc. reported that the impacts that had been identified were considered less than significant. She said four impacts need mitigation measures. During construction air quality would need to be mitigated by keeping the dust down and maintaining the equipment in good order. Ms. Fay reported that four endangered species have been identified as being in the general area, but do not occur in the construction area and would not be impacted by this project. Ms. Fay stated that the drainage channel would not have significant impacts, because

it has already been disturbed. She stated that the hazardous material sites that had been identified included the Arco Station at the corner of Ralston and Hiller, and the landfill at the northeast quadrant of the project. She said that following the study by LSEA it was determined that the ground water was not hazardous under state standards. She said that public routes would be temporarily impacted during construction and mitigation measures would help reduce these impacts. Ms. Fay stated that all of the impacts could be mitigated to less than significant levels.

In response to C. Cook, Acting Public Works Director Jones stated that they would apply for permits from Bay Conservation Development Commission, Army Corp. of Engineers, Department of Fish and Game and U.S. Fish and Wildlife Service once the final documents were approved.

In response to C. Bauer, Acting Public Works Director Jones stated that he thought the permit process would be completed by Spring of 2003, and construction would take approximately 18 months. He explained that the Ozone Attainment Plan had been resubmitted to the Metropolitan Transportation Commission for approval. Acting Public Works Director Jones explained that no federal funding could be spent until all approvals were in place.

Mayor Warden opened the public hearing.

**Mr. Patterson**, Manager for Engineering and Construction for City of Redwood City,

stated that the City of Redwood City was committed to this project. He explained that he had been working with Belmont on the environmental documents, they had no further comments and felt it was now complete. Mr. Patterson hoped that the document would be certified at the next meeting.

**Mr. Warren**, representing the Redwood City/San Mateo County Chamber of Commerce, explained that the Belmont Shores business owners had been assessed to help pay for this project and were supporters. He said they had no further comments and urged the Council to certify this at the next meeting.

**Mr. Hughes**, 1532 Desvio Way, spoke about the stop lights that would be added to the project which he felt would stop traffic flow in this location

**Mr. Smith**, Vice President, Real Estate, Oracle Corporation, said he thought the environmental document addressed all the impacts with mitigation measures that could be done during the project, or as part of the project. He noted that there were no traffic mitigation's because the project addressed all the mitigation's that had been determined when the Oracle Development was planned. Mr. Smith urged certification of this document in January.

On motion by C. Wright, seconded by C. Bauer and approved unanimously, by show of hands, to close the public hearing.

In response to Council questions, Acting Public Works Director Jones explained that this type of intersection allowed more capacity and was safer for the traveling public. He explained that the stoplights would only slow one lane and would provide organization of the traffic. He said there would be 3 lanes, with 2 of them dedicated to turning left, to keep the traffic moving.

C. Warden stated that he served on the Congestion Alliance Board and they had rated this intersection as one of the worst intersections in all nine Bay Area Counties. He thanked the businesses, Oracle and the City of Redwood City for helping to mitigate this intersection.

## **Protest Hearings to decide the Appeals filed by Various Property Owners on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area.**

Community Development Director Ewing explained the process to be used to conduct these lot merger hearings. He noted that each appeal would be heard as a separate hearing, and Attorney Colantuono would be available to answer questions and provide direction.

Community Development Director Ewing explained the conditions needed to merge lots: common ownership, shared property lines; undersized and under- or undeveloped lots; and lots that are unable to meet development standards. Community Development Director Ewing reported that staff had identified over 220 properties that had the potential to be merged. A Notice of Intention to determine Status was sent out in October and twenty-three owners appealed. Following these hearings a Notice of Merger or a notice of non-merger will be recorded. Community Development Director Ewing stated that the properties under consideration did not meet the City's standards for slope stability, safety equipment access and General Plan consistency. He explained that under CEQA these lot mergers would be categorically exempt and there would be reduced revenues for these merger lots effecting future property tax revenues and a reduction in fees for sewers and National Pollution Discharge Elimination System. Community Development Director Ewing stated that staff was recommending Council conduct these hearings and reject appeals and order merger on seven of the lots, and order a non-merger of one lot, which had already undergone a lot line adjustment last year.

Attorney Colantuono reviewed the actions that needed to be followed to conduct these Lot Merger hearings. He cautioned that the Council should be consistent in identifying the lots to be merged. He explained the types of ownership that may apply with these properties. He explained that the definition of record ownership was the name that appeared on the rolls at the County Recorder's office, and that was the person sent the Notice of Intent. Two other types of ownership also provided legal ownership: 1). person holds the property as a matter of law, because of a deed and title that may exist; and 2). Equitable ownership or beneficial ownership that allowed families to pay the taxes, but were not true owners unless a deed had been recorded to note the change of ownership. He said the test that would be applied for these hearings was legal ownership because beneficial ownership was hard to prove.

Attorney Colantuono encouraged the appellants to bring forward any separate deeds they may have for these properties. He explained that was the test that would apply for these parcels.

In response to C. Bauer, Community Development Director Ewing explained that for Council to grant a variance on a lot, there would have to be findings made that determine that it was unique from all the others.

C. Bauer stated that he would be recusing himself from voting on Appeal 21 to be heard on Wednesday, December 12<sup>th</sup>. He stated he had a business and personal relationship with the appellant.

In response to C. Wright, Attorney Colantuono explained that if Council determined there was something unique about the size or shape of a lot, it was recommended that the lots then be merged.

In response to C. Cook, Attorney Colantuono stated that the lot mergers could only be accomplished if they met the three tests: lot ownership and use; Lot size, - compared with standards, and Conformance with Development Standards.

In response to C. Cook, Community Development Director Ewing stated that except for one lot, all the slopes exceeded 30%, and most of them are at 50%.

**Protest Hearing to decide the Appeal filed by MEI CHU HUANG on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area APN'S 043-222-530; -540;--550; -560; -570)**

Community Development Director Ewing stated that all five properties had been analyzed and were all in excess of 30% slope. One area had potential for shallow landslide failure. He noted that these properties on Alhambra Drive were more than 150 feet from a paved road, and the right-of-way included areas of potential debris flow movement, therefore, through street development would not be permitted. He said staff recommended merger based on this criteria.

Mayor Warden opened the public hearing.

**Mr. Huang**, P.O. Box 2085, South San Francisco, CA 94083, said he did not think it was fair to merge his lots and requested that the Council not take this action. He requested more time to hire an Attorney to interpret these documents for him.

**Mr. McLaughlin**, 3313 Plateau Drive, Belmont, stated that he thought most of these lots were bought on speculation or were inherited. He said that the public welfare had to supercede the rights and desires of the property owners. Mr. McLaughlin noted that most of the buildable lots had been built out, and these lots were almost impossible to put a home on. He said there has been flooding and earth movement on some of the lots that should not have been built on, along with the grading which has caused erosion and runoff. He said most of these streets were narrow with difficult access. Mr. McLaughlin stated that the City of San Mateo had saved Sugaloaf Mountain for open space for some of the same reasons. He urged Council to vote for the lot mergers.

On motion by C. Cook, seconded by C. Wright, and approved unanimously, to close the public hearing.

C. Wright stated that he has been a strong supporter of the lot merger from the beginning because these lots all meet the criteria. He said he would support denying these appeals if they continue to meet these criteria.

Community Development Director Ewing stated that these property owners had been notified over two months ago.

**Action**: on motion by C. Cook, seconded by C. Wright, and approved unanimously, by show of hands to adopt:

**Resolution No. 9138** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

**Protest Hearing to decide the Appeal filed by DAR-SUN & MARTHA TEIENON the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-161-850;-860;-870)**

Community Development Director Ewing stated that all three properties had been analyzed and were all in excess of 30% slope. He stated that two of the lots had geologic hazards, and all three lots were more than 150 feet from existing paved road. He noted that Monte Cresta had cross

slopes in excess of the 50% standard and potential debris flow movement in the right-of-way areas. He said staff recommended merger based on this criteria.

Mayor Warden opened the public hearing.

**Ms. Tsien**, 585 Almond Avenue, Los Altos, CA 94002, stated she bought the lots for her children and because they were being merged they would only be allowed to build a 1200 square foot home. She said she felt she was being robbed. She said she had lived here before and had seen construction on steep lots. Ms. Tsien said the Council should think about the people who owned this lots and paid taxes on them.

**Mr. McClain**, 3611 Hillcrest Drive, stated he was in favor of merging these lots and in favor of open space in Belmont.

On motion by C. Metropulos, seconded by C. Cook, and approved unanimously, to close the public hearing.

In response to C. Cook, Community Development Director Ewing used a stairway, which was about 40% slope, as an example to show how steep these lots can be.

**Attorney Colantuono** explained that the reference material showed these lots as flat, but the reality was, that some of these lots were cliffs that were a full acre.

**Action**: on motion by C. Wright, seconded by C. Cook, and approved 5-0, by show of hands, to adopt:

**Resolution No. 9139** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

**Protest Hearing to decide the Appeal filed by GERRY KERSTEN on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-173-340; &-350)**

Community Development Director Ewing stated that these two properties had been analyzed and were all in excess of 30% slope. He stated that the property was less than 120 feet from existing paved road and there were no geologic hazards. He said staff recommended merger based on this criteria.

Mayor Warden opened the public hearing.

**Attorney Fitzgerald**, 345 Lorton Avenue, Burlingame, stated it was obvious these actions were about creating open space. He stated that this is going to destroy the economic value and create inverse condemnation. He said there needed to be compensation for this action. Attorney Fitzgerald stated that he thought that C. Wright had created a problem for himself when he stated that he was going to vote for all of these mergers.

Attorney Colantuono asked Attorney Fitzgerald if he had any evidence to offer that was different than what the record showed at this time to bring it forward at this time.



**Mr. Kersten**, 2654 Templeton Drive, Redding, expressed his concerns about the process and

said he did not agree with the findings that the staff used to merge his lots. He said that if his lots were not contiguous, they could not be merged. He said he thought the lot owners should be compensated for these lots. Mr. Kersten said he can understand the need for open space, but he could not understand a local government taking these lots without compensation. He offered a compromise plan, so that the owners could retain square footage allotments and offer these to developers of buildable lots, so they could be compensated. This would provide open space and the owners would have value for their properties. Mr. Kersten said that if Council would not consider this compromise, he thought that the owners would have to seek legal counsel to receive compensation for this inverse condemnation of their properties.

**Mr. Riechert**, 2724 Sequoia Way, stated that he was an Attorney and had defended lawsuits on landslide cases. He stated that he thought that Monte Cresta was an unbuildable street. He said these lots were not the product of any engineering or scientific work, they were merely carved up without any thought about buildability. He said the slopes on Monte Cresta would require retaining walls, and this structure in the right-of-way, when it fails, would cause the City to have a significant economic event. Mr. Riechert said he felt sorry for these property owners, but this lot merger criterion seemed reasonable to apply to these substandard lots. He said if these streets were allowed, when failure occurs, these property owners would sue the City for these failures. He noted all the lawsuits he was aware of in these areas over the last 20 years. Mr. Reichert explained that if these statutes are not applied, then the burden is shifted to the current homeowners and taxpayers that have to maintain these roads.

On motion by C. Cook, seconded by C. Bauer, and approved unanimously, to close the public hearing.

**Attorney Colantuono** reported that C. Wright's comments did not cause him any concern. He stated that he felt C. Wright would act as the ordinance compels him to do.

**Attorney Colantuono** clarified comments made earlier about the suggestion that these merger actions constituted a regulatory taking, and were the basis for inverse condemnation liabilities. He stated that it was his judgement that the Council had the authority to merge these lots. He said the central basis for merging these lots was two fold: 1). They are steeper than City Standards; and 2). The General Plan does not permit one-way in and one-way out on a development, which is a public safety impact.

**Attorney Colantuono** stated that on this particular lot on San Ardo Way, the Council could vote either way.

C. Wright stated that he thought he had been misunderstood. He said he certainly had not made up his mind on any of these mergers.

In response to C. Bauer, Attorney Colantuono stated that if the Council was interested in pursuing the suggested compromise, that they should order a review of the Zoning Ordinance Floor Area Ratio Standards at a later meeting.

**Action:** on motion by C. Cook, seconded by C. Warden, and approved 4-1 (Bauer, no), by show of hands to adopt:

**Resolution No. 9140** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

**Protest Hearing to decide the Appeal filed by WILLIAM/ELIZABETH BRYANT AND ALVIN/DAWN SPEARS ON THE City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-203-380; -390;-400;-410)**

Community Development Director Ewing stated that these four properties had been analyzed and were all in excess of 30% slope, and had geologic hazards that would prevent construction based on City standards. He stated that the property was less than 120 feet from existing paved road and emergency access may be possible. He said staff recommended merger based on this criteria.

Mayor Warden opened the public hearing.

**Mr. Spears**, 2732 Darknell Way, San Jose, Ca stated that the Bryants owned two of the lots. He said they had just not gotten around to putting separate ownership on the lots. He stated that they had not received enough advance notice of these proceedings. Mr. Spears said he could not figure out why they would not be allowed to build homes, because homes had been constructed on both sides of these lots.

**Mr. Marshall**, 3250 Upper Lock, expressed his concerns about the fire danger and the geologic hazards in this area. He stated that he had been told by firemen that because the roads were so narrow and winding, they would not attempt to save his home in case of fire. He said that the whole area, including four of his neighbors, have had geologic problems. Mr. Marshall stated that there was an active slide on Upper Lock, which was still moving.

On motion by C.Cook, seconded by C.Bauer , and approved unanimously, to close the public hearing.

In response to C. Metropulos, Community Development Director Ewing stated that the City Area Plan does not allow homes to be built in the area around Upper Lock, because of the active landslides.

**Action:** on motion by C. Cook, seconded by C. Wright, and approved unanimously, by show of hands to adopt:

**Resolution No. 9141** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

**Protest Hearing to decide the Appeal filed by CHESTER PHOC CHIEM on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-173-340; & -350)**

Community Development Director Ewing reported that the owner stated that there were different owners for these properties, but the County Assessor indicates one owner owns both lots. He said one lot has a slope less than 30%, but the other lot was greater than 30%. Community Development Director Ewing stated that the properties were between 120 to 150 feet from existing paved road

and emergency access is not currently available, because the debris flow in the right-of-way makes it unsuitable for a road. He said staff recommended merge based on these criteria.

Mayor Warden opened the public hearing.

**Mr. Chiem**, 725 Ranger Circle, Foster City, presented documents for Attorney Colantuono to review. He stated that his brother owns the other lot, and to save escrow fees they put everything on one deed. Mr. Chiem explained that he had blue prints to build two homes when the road is complete in this area. He said he did not think the City should take his property rights away.

**Attorney Colantuono** reported that the Grant Deed demonstrates current title in the four persons named, and that each has an undivided Tenants in Common interest, with one owner. He stated that as a matter of law, the Council has the power to merge the lots.

**Mr. Dentler**, 2608 Wakefield Drive, said he was in favor of updating this 18-year-old plan, and he applauded the Council for their leadership. He stated that this was not about open space vs. property rights, it was about balancing quality of life and safety in the community.

**Action:** on motion by C. Wright, seconded by C. Cook, and approved unanimously, to close the public hearing.

In response to C. Metropulos, Attorney Colantuono explained that Tenants-in-Common all held the same amount of land. He said all the beneficial owners are shown on title as the legal owners.

In response to C. Cook, Attorney Colantuono explained that the property owners still owned their land. The only thing that changed was the regulatory status.

In response to C. Bauer, Attorney Colantuono explained that these lots were too small to subdivide under our current laws.

**Action:** on motion by C. Metropulos, seconded by C. Cook, and approved unanimously, by show of hands to adopt:

**Resolution No. 9142** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

**Protest Hearing to decide the Appeal filed by DAMON CAMPBELL on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-243-100;-110)**

Attorney Colantuono suggested that the Council opens this hearing, and note for the record that there was no need to proceed, and take no action.

Mayor Warden opened the public hearing.

**Mr. Campbell**, 3636 Jefferson Avenue, Redwood City, explained that he had merged there lots last March, with the intention of building a house.

In response to a question by one of the appellants Ms. Tsien, Community Development Director Ewing stated that Mr. Campbell would have an extra 900 sq. Ft. for his house. He explained that Mr. Campbell was able to successfully demonstrate a road construction plan for this site, because

there was an existing paved access immediately adjacent to his property. He stated that Ms. Tsien would have to provide a road improvement plan, and conform to the City's geologic regulations.

At this time, being 10:05 P.M. C. Bauer left the meeting.

**Action:** on motion by C. Metropulos, seconded by C. Cook, and approved 4-0 (Bauer, abs.), to close the public hearing.

**MEETING RECESS:** At this time, being 10:10 P.M., this meeting was recessed.

**MEETING RECONVENED:** At this time, being 10:15 P.M. this meeting was reconvened.

**Protest Hearing to decide the Appeal filed by CHONG SO TA on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-173-340; -560;-570**

Community Development Director Ewing stated that these three properties had been analyzed and were all in excess of 30% slope. He stated that debris flow movement characterized two of the lots and the properties are less than 120 feet from an existing paved road. He said staff recommended merger based on this criteria.

Mayor Warden opened the public hearing.

**Mr. Ta,** son of the appellant, 1338 Bacon Street, San Francisco, stated that homes were built on each side of their lots and they were close to a paved road. He said his father wanted to know how much use they would have now that the lots have been merged.

**Mr. Gorzoll,** 2824 Monte Cresta, stated he was in support of this lot merger which was a natural follow-up to the 1988 San Juan Plan. He said any land purchase in an undeveloped area should be considered speculative. He said there must be a reason this land had not been developed on unpaved roads after all this time. Mr. Gorzoll said that realtors do not have to disclose the risks on this land when they sell it, which he thought should be remedied. He said geologic hazards were the primary reason for lack of development, which he found to be true after doing research at the Planning Department, on a piece of land he considered buying. Mr. Gorzoll said he had compassion for the people involved in these mergers, but he felt the staff report was well written and gave a strong reason for mergers based on the ordinance. Mr. Gorzoll urged the Council to vote for these mergers.

**Action:** on motion by C. Cook, seconded by C. Wright, and approved unanimously, to close the public hearing.

Mayor Warden stated that he would be willing to look at changes to the zoning ordinance in the future to lessen some of the hardship these mergers may cause the owners.

**Action:** on motion by C. Cook, seconded by C. Wright, and approved unanimously, by show of hands to adopt:

**Resolution No. 9143** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

**Protest Hearing to decide the Appeal filed by TESS FLORES on the City's Proposed Lot Merger of Specific Properties in the San Juan Hills Area (APN'S 043-173-340; & 350)**

Community Development Director Ewing stated that these two properties had been analyzed and were all in excess of 30% slope. He stated that the two properties were characterized by actively moving deep landslides, and residential construction is not permitted where this condition is found. One property was more than 150feet from existing paved road, but the right-of-way has a cross slope in excess of 50%, and a deep landslide and potential debris flow movement. The other lot was within 150 feet of existing paved road, but because of the debris flow on both lots, and the lack of access on one lot, staff recommends merger.

Attorney Colantuono clarified that the lots showed the names of Eakin on one lot, and Flores on the other.

Mayor Warden opened the public hearing.

The appellant did not come forward to speak.

**Action:** on motion by C. Cook, seconded by C. Wright, and approved unanimously, to close the public hearing.

**MEETING EXTENDED:** at this time, being 10:30 P.M., this meeting was extended for 15 minutes, on motion by C. Cook, seconded by C. Wright, and approved unanimously.

**Mr. St. Hilaire**, 2712 All View Way, sated he was an engineer and agreed with the 1982 geologic report regarding this area, and he agree with these merger actions. Mr. St. Hilaire said he thought the staff had been fair and had done a professional job.

Attorney Colantuono stated that the property owner had provided a one-sentence letter to request a hearing. Staff stated that they had sent notice of this hearing to the lot owner. Attorney Colantuono stated that he wanted the record to indicate that the owners had had an opportunity to state their case.

**Action:** on motion by C. Wright, seconded by C. Cook, and approved unanimously, by show of hands to adopt:

**Resolution No. 9144** rejecting the appeals, determining that certain lots shall be merged and directing the Planning and Community Development Director to notify the property owners of this decision and to record Notices of Merger.

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**BOARD, COMMISSION, COMMITTEE UPDATES, AND STAFF REPORTS**

**Reorganization of Council Assignments.**

City/County Association of Governments Boards (C/CAG) Delegate Warden; Alternate Bauer

South Bayside System Authority Delegate Wright

South County Fire Authority Delegate Metropulos; Delegate Cook

Peninsula Traffic Congestion Relief Alliance Delegate Bauer; Alternate Warden

ABAG General Assembly Representative Delegate Mayor; Alternate Vice Mayor

San Mateo County Mosquito Abatement District Citizen Representative Robert Blake

San Mateo County Library JPA Delegate Cook; Alternate Wright

Police Chief's Advisory Committee for Juvenile Affairs Delegate Wright

Business Roundtable Delegate Metropulos; Delegate Warden

Liaison to Finance Commission Delegate Vice Mayor, Alternate Metropulos

School Liaison 2+2 meeting: Delegate Cook, Delegate Wright; Alternate Warden

Liaison Committee with other Cities Delegate: Mayor, Delegate: Vice Mayor

San Juan Subcommittee Rep. Cook, Rep. Warden

Technology Subcommittee Representative Warden, Representative Wright

Harbor Industrial Area Liaison Representative Cook, Representative Wright

Liaison Senior Citizen Advisory Committee Delegate Bauer; Alternate Metropulos

Athletic Field Sub Committee Rep. Warden; Rep. Wright; Alt. Bauer

League of California Cities Delegate Mayor, Alternate Vice Mayor

Peninsula Division of League of California Cities Delegate Bauer;, Alternate Cook

San Carlos Airport Forum Representative (not meeting)

SFO Roundtable Representative Delegate Bauer; Alt. Warden

San Mateo Operational Civil Defense & Disaster Council (OES) Delegate Bauer, Alternate Warden

Council of Cities Legislative Committee Representative Metropulos

San Mateo County Council of Cities Delegate Mayor, Alternate Vice Mayor

City Selection Committee Delegate Mayor, Alternate Vice Mayor

**Adjournment** at this time being, 10:45 P.M., to Wednesday, December 12<sup>th</sup>, 7:00 P.M. for Adjourned Meeting at Senior and Community Center, to continue Lot Merger Public Hearing.

Meeting Tape recorded and televised

Tape No. 511

Kathy Kern

Belmont City Clerk